

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BERNARD FRACTION,

Plaintiff,

vs.

MAUREEN HANEY, and LEGAL AID  
OF NE,

Defendants.

**8:17CV291**

**MEMORANDUM  
AND ORDER**

This matter is before the court on Plaintiff's "Second request for Hearing," which the court construes as a Motion to Alter or Amend pursuant to [Federal Rule of Civil Procedure 59\(e\)](#). ([Filing No. 8](#).)

A district court has broad discretion in determining whether to grant or deny a motion to alter or amend judgment pursuant to [Rule 59\(e\)](#). *United States v. Metropolitan St. Louis Sewer Dist.*, 440 F.3d 930, 933 (8th Cir. 2006). Rule 59(e) motions serve the limited function of correcting "manifest errors of law or fact or to present newly discovered evidence." *Id.* (quoting *Innovative Home Health Care v. P.T.-O.T. Assoc. of the Black Hills*, 141 F.3d 1284, 1286 (8th Cir. 1998)). "Such motions cannot be used to introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to entry of judgment." *Id.*

In his motion, Plaintiff continues to argue the merits of his case, but the court dismissed this matter without prejudice for lack of subject matter jurisdiction. (*See* [Filing No. 6](#).) The court cannot address the merits of Plaintiff's case if it lacks subject matter jurisdiction over it. Accordingly,

IT IS THEREFORE ORDERED that: Plaintiff's "Second request for Hearing" ([Filing No. 8](#)) is denied.

Dated this 3rd day of October, 2017.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge